

**845-RICR-00-00-4**

## **TITLE 845 – RESOURCE RECOVERY CORPORATION**

### **CHAPTER 00 – N/A**

### **SUBCHAPTER 00 – N/A**

#### **PART 4 - Municipal Solid Waste Disposal Fee Pricing Structure and Procedure**

#### **4.1 Purpose**

- A. The purpose of this rule is to establish cost- based and predictable municipal disposal fees to fund the Corporation's requirements to provide safe, environmentally compliant and cost effective disposal services to all RI municipalities, while at the same time ensuring that the solid waste management system remains financially self-sufficient, reserving all cash surpluses for the following reasons only:
1. Defer any future municipal price increases;
  2. Fund required major capital investments i.e. a new MRF or other RIRRC Board authorized reserves
  3. Increase landfill life using surplus to offset revenue losses from lower commercial volumes.

#### **4.2 Overview**

The municipal solid waste disposal fee pricing structure is based on projected operating cash expenses, projections for debt service and normalized capital requirements. Each biennial review will produce firm two-year municipal solid waste disposal fees, plus a planning estimate for the remaining three years of the five year look-ahead period.

#### **4.3 Authority**

Pursuant to the provisions of R.I. Gen. Laws Chapters 23-19-1 et seq., including 23-19-3, 23-19-10(5), 23-19-10(10), 23-19-13, 23-19-28.1, as amended, and in accordance with the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, the Rhode Island Resource Recovery Corporation promulgates this rule for the purpose of establishing a Municipal Solid Waste Disposal Fee Pricing Structure and Procedure.

## 4.4 Definitions

“Annual tonnage disposal target” means the target sum of solid waste tons received for disposal by RIRRC for both the commercial and the municipal sectors as projected in its Five-Year Financial forecast prepared by October 1st of each year as per R.I. Gen. Laws § 23-19-37.

“Capital” means funds used to acquire or upgrade business assets with a value over \$10,000 and a useful life greater than one year.

“Cash surplus” means when the cash balance of the Corporation exceeds “minimum cash balance requirements”.

“Cash deficit” means when the cash balance of the Corporation is below “minimum cash balance requirements”.

“Cash from operations” means net income plus depreciation and closure post-closure costs.

“Capping costs” means expenses required to cover the landfill when an active area is filled and can no longer accept solid waste for disposal.

“Debt service cost” means payments of principal and interest on debt.

“Disposal” means depositing, casting, throwing, leaving or abandoning materials that are no longer wanted, needed, or have reached the end of their useful life, which need to be further managed.

“Disposal fee” means the price charged to the customer for the proper disposition of an item or items of solid waste.

“Extraordinary expenses” means cash outlays for non-recurring or non-operation expenses, such as remediation of regulatory issues, legal settlements and funding the landfill closure/post-closure trust, that are not included in operating cash expenses, debt service, or normalized capital and closure expenses.

“Equipment use fee” means the fee assessed to customers when assistance from the Corporation is needed, and the use of Corporation equipment is required. Such equipment may include a loader, bulldozer, roll-off container, or tow line.

“Fiscal year” means the period beginning July 1 and ending the following June 30.

“May” means permissive or discretionary.

“Minimum cash balance requirements” means the cash on hand needed for emergencies, pay ongoing operating expenses, comply with bond covenants and fund authorized reserves as determined by the RIRRC Board of Commissioners.

“MRF” means Materials Recycling Facility, specifically the facility located at 33 Shun Pike, Johnston, Rhode Island.

“Municipal disposal fee” means the fee, defined in R.I. Gen. Laws § 23-19-13(g) (1), charged by the Corporation to municipalities for with which it has a long-term contract for the disposal of solid waste. This rule shall not supersede R.I. Gen. Laws § 23-19-13(g)(3).

“Municipal solid waste”, or “MSW”, means that solid waste generated by the residents of a municipality in the course of their daily living, the disposal of which the governing body of that municipality has undertaken in the discharge of its duties to protect the health of the municipality. Municipal solid waste does not include solid waste generated by residents of a municipality in the course of their employment or that generated by any manufacturing or commercial enterprise, nor does it include hazardous waste as defined in R.I. Gen. Laws § 23-19.1-4(4).

“Normalized capital and capping” means the arithmetic average of the five years of projected annual capitalized expenditures and capping costs.

“Operating cash expenses” means all operating expenses as included in the audited financial statements except for depreciation and closure/post-closure.

“Recycling cash revenue” means RIRRC revenues projected for the processing and sale of materials segregated from the waste and generated by MRF, Composting, and Tipping Facility operations.

“RIRRC” or “Corporation” means Rhode Island Resource Recovery Corporation.

“Shall” means mandatory.

“Solid waste” means garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material generated by residential, institutional, commercial, industrial, and agricultural sources but does not include solids or dissolved materials in domestic sewage.

## 4.5 Procedure

- A. Beginning September 1, 2016 and every other year thereafter, the following procedure shall be used to determine the Municipal Disposal Fee to be charged in the two subsequent fiscal years beginning July 1, noting that a Municipal Disposal Fee increase is warranted only when the Corporation's projected cash balance falls below the minimum cash balance requirement:
1. The Corporation shall prepare a five-year financial projection of its cash flows and balances no later than October 1. This five-year projection shall use as the baseline municipal disposal fee the prevailing municipal disposal fee in effect at the time of the analysis; the baseline fee shall carry through all five years of the projection. The projection shall include full funding of landfill closure/post-closure liabilities.
  2. If a cash deficit shows in either of the first two years of the projection period then the formula described in § 4.5(A)(3) of this Part below will be used to determine the new Municipal Disposal Fee to be effective for those two fiscal years. The disposal fee as derived shall become the new baseline fee, against which further determinations of the need for future increases shall be measured. If a cash surplus is projected in each of the first two years of the projection then the municipal disposal fee will not be adjusted, and the baseline fee in effect at the time of the projection analysis shall be the municipal disposal fee effective for the subsequent two fiscal years.
  3. The projected Municipal Price per ton shall be calculated for each year of the five-year projections using the following formula or as amended by future rulemaking:
    - a.  $\{\text{Operating Cash Expenses} + \text{Debt Service} + \text{Normalized Capital and Capping} + \text{Extraordinary Cash Expenses}\} - \text{Recycling Cash Revenue} = \text{Total Landfill Cash Expenses}$
    - b.  $\text{Total Landfill Cash Expenses} - \text{Commercial Revenue} = \text{Cash Required from Municipal Tip Fees}$
    - c.  $\text{Cash Required from Municipal Tip Fees} / \text{Target Municipal Tonnage} = \text{Projected Municipal Price per Ton}$
  4. The Municipal Disposal Fee shall be equal to the arithmetic average of the projected Municipal Price per Ton of the first two years of the five-year projection period, rounded to the nearest whole dollar amount. Projection years three through five shall use the set fee for planning and directional

purposes only. The adjustments to the Municipal Disposal Fee will be approved and authorized by the Corporation's Board of Commissioners pursuant to R.I. Gen. Laws § 23-19-10(10) as amended, and communicated to municipalities no later than December 31, for implementation the following July 1.

5. All other fees shall be evaluated annually (see § 4.6 of this Part).
6. Pursuant to R.I. Gen. Laws § 23-19-31 as amended, recyclable materials as determined by the Department of Environmental Management shall be accepted for processing by the Corporation without a disposal fee, with the exception of those materials deemed prohibitive or contaminated, as described in § 4.6(B) of this Part.

## **4.6 Additional Fees**

### **A. Materials Recycling Facility (MRF) and Compost Facility rejected loads**

1. Loads of collected recyclable materials or leaf and yard debris which, after a determination made by the RIRRC Operations Supervisors, are seen to contain prohibited materials or excessive contamination shall be rejected and reclassified as MSW and the municipal solid waste disposal fee applied. In addition to the landfill fee, a rejected load fee shall also be applied for every instance of rejection. The rejected load fee shall be the same amount as charged to landfill customers for the "Equipment Use Fee".

### **B. Disposed materials, not coded to landfilling**

1. Municipalities shall be charged disposal fees for non-landfilled materials indicated on the annual "Rate Code and Prices" sheet, as approved by the Corporation's Board of Commissioners.

### **C. Items disposed by Third Party Operator (TPO)/Vendor**

1. From time to time there may be materials that for various reasons are either unable to be, are unsuitable to be, or prohibited from being landfilled. When there is a third party operator or vendor cost to removing the materials from the landfill site, that cost may be passed on to the customer.

### **D. Leaf and Yard Debris**

1. Leaf and Yard Debris shall be accepted at the facility, pursuant to R.I. Gen. Laws § 23-19-3(17), and associated fees outlined in the statute applied.

#### **4.7 BILLING**

- A. The Corporation shall bill the municipality monthly for the disposal of MSW at the central landfill and the municipality agrees to pay all sums due within thirty (30) days of invoice date.
- B. The Corporation shall allow an early payment discount. Upon receipt of full payment of an invoice within 20 days of the invoice date which brings the municipality's outstanding balance to zero, the municipality shall receive a one-and-one-half percent (1.5%) discount from the invoice's amount. The municipality's eligibility expires monthly and is renewed monthly with the issuance of each month's invoice, as stated in § 4.7(A) of this Part.

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